

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

Crl.MC.No. 3894 of 2006()

AGAINST THE ORDER IN CMP 2526 2006 IN
CC.192/2005 of THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,PERINTHALMANNA
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PETITIONER: ACCUSED:

MOHAMMEDALI, S/O.KUNHALAN,
PARALI HOUSE, THAZHEKODE AMSOM DESOM,
PERINTALMANNA TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.DEVIDAS.U.K

RESPONDENTS: STATE

STATE REPRESENTED BY SUB INSPECTOR
OF POLICE, PERINTALMANNA,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27/11/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3894 OF 2006

Dated this the 27th day of November, 2006.

ORDER

The grievance of the petitioner is that no speaking order has been passed on Annexure-B application filed by him to exempt him from personal appearance and to make his plea through counsel. It is the submission of the petitioner that he is employed abroad; that the matter has been settled between the parties; that all the co-accused have already been found not guilty and acquitted and that the learned Magistrate must have granted his prayer for exemption from personal appearance to record the plea and later for 313 examination.

2. The counsel submits that no speaking order has been passed on Annexure-B application. I am in ready agreement with the learned counsel for the petitioner that a speaking order must certainly have been passed by the learned Magistrate on Annexure-B application, ie. C.M.P.No.2526 of 2006 in C.C.No.192 of 2005

3. I am satisfied that the interests of justice shall be served eminently by directing the learned Magistrate to pass a speaking order on Annexure-B application. It has often been

repeated that unnecessary insistence on personal appearance of the accused before a criminal court need not be made. The learned Magistrate, needless to say, shall pass fresh order on C.C.No.192 of 2005 as expeditiously as possible - at any rate, within a period of 30 days from the date on which a copy of this order is placed before the learned Magistrate. Till such order is passed, no coercive process shall be issued against the petitioner and processes issued shall be withdrawn straight away.

**R.BASANT
JUDGE**

rtr/